

Application Number 10/687,336
Responsive to Office Action mailed May 1, 2006

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REMARKS

This Amendment is responsive to the Office Action dated May 1, 2006. Applicant has amended claim 55 for purposes of clarity. Claims 50-57 remain pending.

Claim Rejection Under 35 U.S.C. § 102

The Office Action rejected claims 50-51 and 55 under 35 U.S.C. § 102(b) as being anticipated by U.S. 4,326,535 to Steffel et al. (Steffel). Applicant respectfully traverses the rejection. Steffel fails to disclose each and every feature of the rejected claims, as required by 35 U.S.C. § 102(b), and provides no teaching that would have suggested the desirability of modification to include such features.

For example, Steffel fails to disclose or suggest a plurality of implantable sensors, each of which periodically measures a physiological parameter indicative of gastroesophageal reflux, as required by independent claim 50. Instead, Steffel describes a system that includes a single sensor 11, which senses pH. Accordingly, Steffel does not even disclose a plurality of sensors, much less a plurality of sensors that periodically measure a physiological parameter indicative of gastroesophageal reflux.

The Office Action stated that "Steffel et al. shows...a plurality of sensors 11 and 13."¹ Applicant respectfully suggests that Steffel has been misinterpreted. ECG signal radiotelemetry system 13 is neither a sensor, nor implantable. Instead, ECG signal radiotelemetry system 13 is telemetry system conventionally used to transmit ECG signals, which according to Steffel is instead used to transmit the signal generated by pH sensor 11.²

It appears that the Office Action interpreted Steffel as teaching an ECG sensor. This is not correct. Steffel instead teaches one pH signal modified to be sent by an ECG system. Further, even if Steffel did teach an ECG sensor, Steffel would still fail to teach or suggest a plurality of sensors that periodically measures a physiological parameter indicative of gastroesophageal reflux, as required by independent claim 50.

Steffel also fails to disclose or suggest a sensor that transmits a signal indicative of the physiological parameter and an identifier that is indicative of the sensor from which the signal is

¹ Office Action, Page 2.

² Steffel, col. 3, ll. 54-57 and col. 5, ll. 3-23.

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sent, as further required by independent claim 50. Since pH monitoring device 11 is the only sensor described in Steffel, there would be no reason to include an identifier in the signal indicative of device 11. Further, contrary to the statement in the Office Action that "Steffel shows that the identifier comprises a frequency signal,"³ Steffel teaches, "a signal whose waveform is similar to an ECG waveform and one of whose parameters, such as frequency, is proportional to esophageal pH."⁴ According to Steffel, the frequency signal is proportional to esophageal pH, not an identifier of the sensor.

Steffel fails to disclose each and every limitation set forth in claims 50-51 and 55. For at least this reason, the Office Action has failed to establish a prima facie case for anticipation of Applicant's claims 50-51 and 55 under 35 U.S.C. § 102(b). Withdrawal of this rejection is requested.

Claim Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 52-54 and 56-57 under 35 U.S.C. § 103(a) as being unpatentable over Steffel in view of U.S. 6,416,471 to Kumar et al. (Kumar). Applicant respectfully traverses the rejection. The applied references fail to disclose or suggest the inventions defined by Applicant's claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

Initially, Applicant notes that Kumar fails to provide any teaching that would have overcome the basis deficiencies of Steffel with respect to the requirements of independent claim 50 discussed above. For example, Kumar does not even suggest a single sensor measures a physiological parameter indicative of gastroesophageal reflux, much less the plurality of sensors that measure a physiological parameter indicative of gastroesophageal reflux required by independent claim 50. Furthermore, the combination of Steffel in view of Kumar fails to suggest the elements of claims 52-54 and 56-57.

As an example, claim 52 requires that each of the plurality of sensors includes a respective microprocessor. Kumar does not suggest this requirement of claim 52. As indicated by FIG. 6 of Kumar, the processor 70 cited in the Office Action is a single microprocessor not

³ Office Action, Page 2.

⁴ Steffel et al., Abstract.

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associated with any of the individual sensors 62, and indeed not even included as part of sensor band 10. Therefore, Steffel in view of Kumar fails to suggest to someone of ordinary skill in the art that each sensor include a respective microprocessor, as required by claim 52.

For at least these reasons, the Examiner has failed to establish a prima facie case for non-patentability of Applicant's claims 52-54 and 56-57 under 35 U.S.C. § 103(a). Withdrawal of this rejection is requested.

CONCLUSION

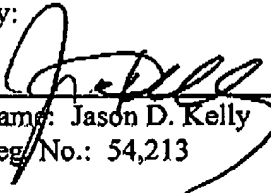
All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

8/1/06

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